

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

UNITED STATES OF AMERICA and
THE STATE OF WISCONSIN,

Plaintiff,

vs.

Case No. 10-CV-910-WCG
Hon. William C. Griesbach

NCR CORPORATION, *et al.*,

Defendants.

**SEPARATE STATEMENT OF THE CITY OF APPLETON PURSUANT TO
STIPULATION RE: PRE-TRIAL AND TRIAL PROCEDURES**

This statement is submitted pursuant to sections 11(C) and 12(A) of the Stipulation RE: Pretrial and Trial Procedures (Dkt. #606), as the separate filing of the City of Appleton on trial schedule and division of time for the trial ("Trial") scheduled to begin on December 3, 2012.

The Case Management Order (Dkt. #401) provides that the Trial is limited to issues relating to Plaintiff's Fifth Claim for Relief which seeks to determine the liability of the recipients of the November 2007 unilateral administrative order ("UAO") to comply with the provisions of the UAO (other than section XIX). Because the City of Appleton is not a UAO recipient, the City does not anticipate any direct involvement in the Trial. For that reason, the City does not expect to require any time being allotted to it to try the case. However, to the extent other parties present testimony or other evidence that might result in findings adverse to the City in future phases of the case, the City must be given the opportunity to respond through cross-examination and the presentation of responsive evidence.

L:\DOCS\003013\000005\PLEAD\30H6050.DOCX
1112121426

Because it is not a UAO recipient, the City is not in a position to express an opinion on the total time necessary for the trial related to the claims against the UAO recipients.

Dated: November 12, 2012.

By: /s/Richard C. Yde
Paul G. Kent (#1002924)
Richard C. Yde (#1013600)
Ted Waskowski (#1003254)
Margaret I. Hoefer (#1036470)
Attorneys for Defendant City of Appleton
Stafford Rosenbaum LLP
P.O. Box 1784
Madison, WI 53701-1784
Phone: 608-256-0226
Fax: 608-259-2600
pkent@staffordlaw.com
ryde@staffordlaw.com
twaskowski@staffordlaw.com
mhoefer@staffordlaw.com

City Attorney's Office
James Walsh (#1009328)
Attorneys for Defendant City of Appleton
City of Appleton
100 N. Appleton Street
Appleton, WI 54911-4702
Phone: (920) 832-6423
Fax: (920) 832-5962
jim.walsh@appleton.org